

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **05 -MSRC- 006**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

vs.

FINAL ORDER REGARDING DENNIS JEWELL

DENNIS JEWELL

RESPONDENT

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent **Dennis Jewell**, and the members of the Commission having reviewed the Settlement Agreement filed on May 16, 2005 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**. A copy is attached hereto;
4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or

filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.

5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 26TH day of MAY 2005.



MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 27TH day of May 2005:

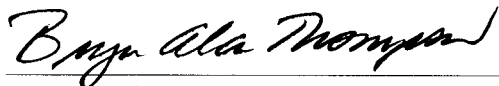
DENNIS JEWELL
P.O. BOX 1225
LOUISA KY 41230
Respondent

And by messenger mail to:

HON. TONY OPPEGARD
GENERAL COUNSEL
OFFICE OF MINE SAFETY & LICENSING
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601



Bryon Alan Thompson
General Counsel
Mine Safety Review Commission

RECEIVED
MAY 16 2005
MINE SAFETY
REVIEW COMMISSION

Respondent

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

Administrative Action No. 05-MSRC-006

¹ OMSL and Jewell are filing a joint motion with the Mine Safety Review Commission (“the Commission”) to approve the Settlement Agreement and dismiss this action.

parties.

2. During this one-year probationary period, Jewell shall comply with all state and federal mine safety laws and regulations. The willful violation by Jewell of any of said laws or regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke his electrician's certificate and/or his underground miner's certificate for the remainder of the probationary period.²

3. Within 45 days of the effective date of this Settlement Agreement, Jewell must take **EIGHT(8) HOURS OF SPECIAL SAFETY TRAINING** from OMSL at its Martin District office.³

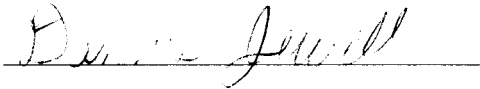
4. This Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1 (5); and any future adjudication against Jewell by the Commission - regarding a separate alleged offense - will be deemed a "subsequent offense" as defined at 805 KAR 8:010, Section 1 (13).

Jewell understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Jewell further states that he has carefully read this Settlement Agreement, that he has carefully considered the Agreement prior to signing it, and that he understands and agrees to its terms and provisions.

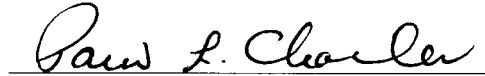
² If the circumstances warranted, OMSL would also retain the right to file a separate action with the Commission seeking other penalties against Jewell for his actions. In either event, Jewell would have the right to a hearing before the Commission on the allegations against him.

³ Said special safety training is in addition to any annual refresher training or other safety training that Jewell is legally required to take.

OMSL and Jewell acknowledge and agree that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.



DENNIS JEWELL
P.O. Box 1225
Louisa, Kentucky 41230



PARIS L. CHARLES
Executive Director
Ky. Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

5 - 10 - 05
DATE

5/16/05
DATE

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement was ~~hand-~~ ^{MAILED}
~~delivered~~ this 16TH day of May, 2005, to Dennis Jewell, P.O. Box 1225, Louisa, Kentucky
41230.



TONY OPPEGARD
General Counsel

KY. OFFICE OF MINE SAFETY & LICENSING